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INTERSTATE COMMERCE COMMISSION
1111 19TH STREET, N.W.

REID & PRIEST

40 WEST 57TH STREET
NEW YORK, N. Y. 10019

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MAY 22 1984 - 9 10 AM

INTERSTATE COMMERCE COMMISSION

NEW YORK OFFICE

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MAY 22 1984 - 9 10 AM

Date

Fee \$ 100.00 May 21, 1984

DIRECT DIAL NUMBER

INTERSTATE COMMERCE COMMISSION
ICC Washington, D. C.

Mr. James H. Bayne
Secretary
Interstate Commerce Commission
12th and Constitution Avenue, N.W.
Washington, D.C. 20423

RECORDATION NO. 14325 A Filed 1425

MAY 22 1984 - 9 10 AM

INTERSTATE COMMERCE COMMISSION

Dear Mr. Bayne:

Enclosed please find one original and one counterpart or certified true copy of each of the following documents, to be recorded pursuant to Section 11303 of Title 49 of the U. S. Code:

(1) Conditional Sale Agreement, a primary document, dated as of May 15, 1984 (the "CSA"), between The Connecticut Bank and Trust Company, National Association (not in its individual capacity but solely as Trustee under a Trust Agreement dated as of May 15, 1984 with Progress Leasing Corporation) and Bethlehem Steel Corporation.

(2) Agreement and Assignment, a secondary document, dated as of May 15, 1984 (the "Agreement and Assignment"), between Bethlehem Steel Corporation, as Builder, and John Hancock Mutual Life Insurance Company, as Assignee.

(3) Lease of Railroad Equipment, a primary document, dated as of May 15, 1984 (the "Lease"), between System Fuels, Inc., as lessee (the "Lessee") and The Connecticut Bank and Trust Company, National Association (not in its individual capacity but solely as Trustee under a Trust Agreement dated as of May 15, 1984 with Progress Leasing Corporation), as lessor (the "Lessor").

(4) Assignment of Lease and Agreement, a secondary document, dated as of May 15, 1984 (the "Assignment of Lease"), between The Connecticut Bank and Trust Company, National Association, as Assignor (acting solely in its capacity as Trustee under a Trust Agreement dated as of May 15, 1984 with Prog-

May 21, 1984

ress Leasing Corporation) and John Hancock Mutual Life Insurance Company, as Assignee, and the Consent to such Assignment of Lease by System Fuels, Inc. ("Consent").

We request that the Agreement and Assignment be cross-indexed under the name of The Connecticut Bank and Trust Company, National Association, and that the Assignment of Lease be cross-indexed under the name of System Fuels, Inc.

The names and addresses of the parties to the CSA, the Agreement and Assignment, the Lease and the Assignment of Lease are as follows:

Trustee	The Connecticut Bank and Trust Company, National Association One Constitution Plaza Hartford, Connecticut 06115
Builder & Assignor under Agreement and Assignment	Bethlehem Steel Corporation Freight Car Division - Division General Manager Johnstown, Pennsylvania 15907
Assignee under Agreement and Assignment	John Hancock Mutual Life Insurance Company Attention: Bond and Corporate Finance Department, T-57 John Hancock Place P. O. Box 111 Boston, Massachusetts 02117
Lessee	System Fuels, Inc. 225 Baronne Street New Orleans, Louisiana 70112 (Attention of Treasurer)
Lessor	The Connecticut Bank and Trust Company, National Association One Constitution Plaza Hartford, Connecticut 06115
Assignee under Assignment of Lease	John Hancock Mutual Life Insurance Company Attention: Bond and Corporate Finance Department, T-57 John Hancock Place P. O. Box 111 Boston, Massachusetts 02117

The CSA, the Agreement and Assignment, the Lease and the Assignment of Lease cover the following equipment ("Units of Equipment"):

320 100-ton rotary dump coal cars, manufactured by Bethlehem Steel Corporation (the "Builder").

A.A.R. Mechanical Designation: GT

Builder's Specifications: Bethcar specification
Nos. DF 3400-564

Lessee's Identification Nos.: SFIX 8005 through
(both inclusive) 8007; SFIX 2575
through 2891

Identifying Marks: Each Unit of Equipment shall be marked on each side, in letters not less than one inch in height, with the words "OWNED BY A BANK OR TRUST COMPANY AS TRUSTEE AND SUBJECT TO A SECURITY AGREEMENT FILED WITH THE INTER-STATE COMMERCE COMMISSION."

A fee of \$100.00 is enclosed. Please stamp and return the original copy of each document, together with a notation or receipt indicating the Recordation Number and the date and time of filing (if convenient for you, this information may be stamped on the extra copy of this transmittal letter furnished herewith).

A short summary of the documents to appear in the index follows:

(1) Conditional Sale Agreement between The Connecticut Bank and Trust Company, National Association (not in its individual capacity but solely as Trustee under a Trust Agreement dated as of May 15, 1984 with Progress Leasing Corporation), One Constitution Plaza, Hartford, Connecticut 06115 and Bethlehem Steel Corporation, Freight Car Division-Division General Manager, Johnstown, Pennsylvania 15907, dated as of May 15, 1984, and covering 320 100-ton rotary dump coal cars.

(2) Lease of Railroad Equipment between The Connecticut Bank and Trust Company, National Association (not in its individual capacity but solely as Trustee under a Trust Agreement dated as of May 15, 1984 with Progress Leasing Corporation), as Lessor,

May 21, 1984

One Constitution Plaza, Hartford, Connecticut 06115 and System Fuels, Inc., as Lessee, 225 Baronne Street, New Orleans, Louisiana 70112, dated as of May 15, 1984, and covering 320 100-ton rotary dump coal cars.

(3) Agreement and Assignment between Bethlehem Steel Corporation, as Builder, Freight Car Division-Division General Manager, Johnstown, Pennsylvania 15907 and John Hancock Mutual Life Insurance Company, as Assignee, Attention: Bond and Corporate Finance Department, T-57, John Hancock Place, P.O. Box 111, Boston, Massachusetts 02117, dated as of May 15, 1984, and covering 320 100-ton rotary dump coal cars, and connected to the Conditional Sale Agreement with Recordation No. _____.

(4) Assignment of Lease and Agreement between The Connecticut Bank and Trust Company, National Association, as Assignor (acting solely in its capacity as Trustee under a Trust Agreement dated as of May 15, 1984 with Progress Leasing Corporation), One Constitution Plaza, Hartford, Connecticut 06115 and John Hancock Mutual Life Insurance Company, as Assignee, Attention: Bond and Corporate Finance Department, T-57, John Hancock Place, P.O. Box 111, Boston, Massachusetts 02117, and the Consent to such Assignment of Lease and Agreement by System Fuels, Inc., 225 Baronne Street, New Orleans, Louisiana 70112, all dated as of May 15, 1984, and covering 320 100-ton rotary dump coal cars, and connected to the Lease of Railroad Equipment with Recordation No. _____.

Very truly yours,

REID & PRIEST

By: John S. Bacon
John S. Bacon, Esq.

CERTIFICATE

May 21, 1984

I have compared the attached documents with the originals thereof and have found the attached documents to be complete and identical in all respects to the original documents.

Louise A. Buckley
Notary Public

LOUISE A. BUCKLEY
Notary Public, State of New York
No. 41-4742240
Qualified in Queens County
Certificate filed in N. Y. County
Commission Expires March 30, 1985

Interstate Commerce Commission

Washington, D.C. 20423

5/22/84

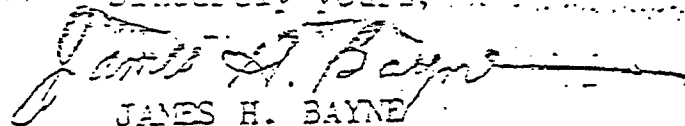
OFFICE OF THE SECRETARY

John S. Bacon, Esq.
Reid & Priest
40 West 57th Street
New York, N.Y. 10019

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 5/22/84 at 9:10am and assigned re-recording number(s). 14325, 14325-A, 14325-B, 14325-C

Sincerely yours,



JAMES H. BAYNE

Secretary

Enclosure(s)

14326
RECORDATION NO. Filed 1425

MAY 22 1984 - 9 10 AM

INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of May 15, 1984

between

THE CONNECTICUT BANK AND TRUST COMPANY,
NATIONAL ASSOCIATION,
not in its individual capacity but solely
as Trustee under a Trust Agreement
dated as of the date hereof with
PROGRESS LEASING CORPORATION

and

BETHLEHEM STEEL CORPORATION

CONDITIONAL SALE AGREEMENT

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Annex A--Miscellaneous

Annex B--Specifications

Annex C--Lease of Railroad Equipment

Annex D--Assignment of Lease and Agreement

CONDITIONAL SALE AGREEMENT dated as of May 15, 1984, between BETHLEHEM STEEL CORPORATION, a Delaware corporation (the "Builder" or the "Vendor" as the context may require, all as more particularly set forth in Article 1 hereof), and THE CONNECTICUT BANK AND TRUST COMPANY, NATIONAL ASSOCIATION, acting not in its individual capacity but solely as Trustee (the "Trustee") under a Trust Agreement dated as of the date hereof (the "Trust Agreement") with PROGRESS LEASING CORPORATION, a Florida corporation (the "Owner").

WHEREAS the Builder has agreed to construct, sell and deliver to the Trustee, and the Trustee agrees to purchase, subject to the terms and conditions hereof, the railroad equipment described in Annex B hereto to the extent not excluded herefrom under the provisions hereof (the "Equipment" as more specifically described in Paragraph 4.2 hereof);

WHEREAS at the date of execution of this Agreement, no unit of the Equipment has been placed in service; and

WHEREAS the Trustee is entering into a lease with SYSTEM FUELS, INC., a Louisiana corporation (the "Lessee") in substantially the form annexed hereto as Annex C (the "Lease");

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1

ASSIGNMENT; DEFINITIONS

1.1. Contemplated Sources of Purchase Price; Assignment. The parties hereto contemplate that the Trustee will furnish such portion of the Purchase Price (as defined in Paragraph 4.1 hereof) for the Equipment as is required by Paragraph 4.3(a) hereof and that an amount equal to the balance of such Purchase Price shall be paid to the Builder by JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY, a Massachusetts corporation (hereinafter called the "Assignee" or the "Vendor" as the context may require, all as more particularly set forth in Paragraph 1.3 be-

low), pursuant to an Agreement and Assignment dated as of the date hereof (the "CSA Assignment") between the Builder and the Assignee.

1.2. Lease Assignment. The Trustee will assign to the Vendor (as defined in Paragraph 1.3 hereof), as security for the payment and performance of all the Trustee's obligations hereunder, certain right, title, and interest of the Trustee in and to the Lease, pursuant to an Assignment of Lease and Agreement in substantially the form of Annex D hereto (the "Lease Assignment") and the Lessee shall consent thereto pursuant to a consent in substantially the form attached to the Lease Assignment (the "Consent").

1.3. Meaning of "Builder" and "Vendor". The term "Builder", whenever used in this Agreement, means, both before and after any assignment of its rights hereunder, the party hereto which has manufactured the Equipment to be constructed and sold hereunder and any successor or successors to its manufacturing properties and business. The term "Vendor", whenever used in this Agreement, means, before any such assignment, the Builder, and, after any such assignment, both any assignee or assignees of such particular assigned rights, as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment. Any reference herein to this Agreement or any other agreement shall mean said agreement and all amendments and supplements hereto or thereto then in effect.

ARTICLE 2

CONSTRUCTION AND SALE

Pursuant to this Agreement, the Builder shall construct the Equipment at its plant described in Annex B hereto, and will sell and deliver the Equipment to the Trustee, and the Trustee will (as hereinafter provided) purchase from the Builder and accept delivery of and pay for the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing among the Builder, the Trustee and the Lessee, which agreement shall not be unreasonably withheld (which specifications and modifications, if any, are hereinafter called the "Specifications"). The Builder represents and warrants that (i) the design, quality and component parts of each unit of the Equipment to be delivered by the Builder under this Agree-

ment shall conform, on the date of delivery and acceptance thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit, (ii) none of such component parts will be used components, and (iii) prior to delivery thereof, the Builder shall not have used the Equipment so as to preclude the original use thereof (within the meaning of Section 48(b) of the Internal Revenue Code of 1954, as amended) from commencing with the Trustee.

ARTICLE 3

INSPECTION AND DELIVERY

3.1. Place of Delivery. The Builder will deliver the units of the Equipment to the Trustee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Trustee), freight charges and storage charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that the Builder shall not have any obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clause (c) of Paragraph 16.1 hereof or during the continuance of any event of default (as described in Paragraph 16.1 hereof), or event which, with the lapse of time and/or giving of notice, could constitute such an event of default. The Builder agrees not to deliver any unit of Equipment hereunder (a) following receipt of written notice from the Trustee or the Assignee of the commencement of any such proceedings or the occurrence of any such event, as aforesaid, until such time as such written notice may be cancelled by a further written notice, and (b) until it receives notice (i) from the Assignee that the conditions contained in Paragraph 7 of the Participation Agreement dated as of the date hereof (the "Participation Agreement"), among the Lessee, the Lessee Stockholders (as defined in the Participation Agreement), the Trustee, the Owner and the Assignee, have been met and (ii) from the Trustee that the conditions contained in Paragraph 8 of the Participation Agreement have been met. Any such notices from the Trustee shall, in addition, be delivered to the Assignee and such notices from the Assignee shall, in addition, be delivered to the Trustee.

3.2. Force Majeure. The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

3.3. Exclusion of Equipment. Notwithstanding the provisions of Paragraph 3.2 hereof, any Equipment excluded from the Lease pursuant to Paragraph 1 of the Participation Agreement and any Equipment not delivered pursuant to Paragraph 3.1 hereof and any Equipment not delivered and accepted hereunder on or before August 31, 1984, shall be excluded from this Agreement, and the Trustee shall be relieved of its obligation to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment, if any, not so excluded herefrom. In the event of any such exclusion of any unit of Equipment herefrom pursuant to the foregoing provisions of this Paragraph 3.3 or pursuant to Paragraph 4.1 hereof, or in the event the Trustee is relieved of its obligation hereunder to accept or pay for any or all units of Equipment in accordance with the terms and conditions hereof for any reason whatsoever, the Lessee will be obligated pursuant to Paragraph 1 of the Participation Agreement to accept all such units completed and delivered by the Builder and to pay the full purchase price therefor when due, all in accordance with the terms of its prior contractual arrangements with the Builder relating to the Equipment (the "Purchase Order"), and the Trustee will reassign, transfer and set over, without representation or warranty, to the Lessee all the right, title and interest of the Trustee in and to the units so excluded and the Purchase Order to the extent relating thereto. The delivery to and acceptance by or on behalf of the Trustee of any unit of Equipment excluded from this Agreement shall be ineffective, ab initio, to create in or transfer to the Trustee any legal or beneficial right or interest in such unit or to impose on the Trustee any liability, obligation or responsibility (except as specifically set forth above) with respect thereto.

3.4. Inspection. During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Trustee (who may be em-

ployees or agents of the Lessee), and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon or after completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Trustee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications and requirements and standards applicable thereto, such inspector or an authorized representative of the Trustee (who may be an employee or agent of the Lessee) shall execute and deliver to the Builder (with a copy thereof to the Vendor) a certificate of acceptance substantially in the form of Exhibit A hereto (the "Certificate of Acceptance") stating that such unit or units have been inspected and accepted on behalf of the Trustee and are marked in accordance with Paragraph 10.1 hereof; provided, however, that the Builder shall not thereby be relieved of its warranties or patent indemnification obligations referred to in Paragraph 14.4 hereof. By § 2 of the Lease, the Trustee is appointing the Lessee its agent to inspect and accept delivery of the Equipment. Acceptance of any unit of Equipment by the Lessee (or its employees or agents, as aforesaid) pursuant to § 2 of the Lease shall be deemed to be acceptance of such unit by the Trustee.

3.5. Builder's Responsibilities After Delivery. On delivery by the Builder hereunder of any unit of Equipment and acceptance of such unit hereunder at the place specified for delivery, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of its warranties or patent indemnification obligations referred to in Paragraph 14.4 hereof.

ARTICLE 4

PURCHASE PRICE AND PAYMENT

4.1. Meaning of "Purchase Price"; Exclusion of Units. The base price or prices per unit of the Equipment are set forth in Annex B hereto. Such base price or prices are subject to such increase or decrease as may be provided for in the Purchase Order or as otherwise may be agreed to by the Builder, the Assignee, the Trustee and the Lessee. The term "Purchase Price" as used herein shall mean the base price or prices as so increased or

decreased as set forth in the invoice or invoices of the Builder delivered to the Trustee and, if the Purchase Price is other than the base price or prices set forth in said Annex B, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessee and the Trustee (such invoice or invoices being hereinafter called the "Invoices"). If on the date of delivery and acceptance of any of the units of the Equipment the aggregate Purchase Price for all units of Equipment which have been delivered and are then being delivered, but for the provisions of this sentence, would exceed the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount to which the Trustee, the Assignee, and the Lessee may have agreed prior to the delivery of such units of Equipment), the Builder (and any assignee of the Builder) will enter into an agreement excluding from this Agreement such unit or units of Equipment, specified by the Trustee and the Lessee, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price to not more than said Maximum Purchase Price (or such higher amount as aforesaid) and the Trustee shall have no further obligation or liability in respect of the units so excluded.

4.2. Closing Dates. The Equipment shall be settled for in such number of groups of units of the Equipment as is provided in Item 2 of Annex A hereto, provided, that such units have been delivered to and accepted by the Trustee. The term "Closing Date" with respect to any Group (as hereinafter defined) shall be such date as is specified in Item 2 of Annex A hereto, or such other date as may be specified by the Lessee by three business days' written notice thereof with the concurrence of the Trustee, the Assignee and the Builder, but in no event shall such Date be later than August 31, 1984. Such notice shall specify the aggregate Purchase Price of such Group and a copy thereof shall be sent by the Lessee to the Builder, the Assignee and the Trustee. The term "Group", as used herein, shall mean the group of units of Equipment being settled for on any Closing Date. The place of each closing shall be at the offices of Messrs. Reid & Priest, New York, New York. On or before the date on which any unit of Equipment is delivered to or accepted by the Trustee, the Builder shall present to the Trustee and the Lessee an Invoice or other writing specifying the Purchase Price for such Equipment. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York or New Orleans, Louisiana are authorized or obligated to remain closed.

4.3. Indebtedness of Trustee to Vendor. Subject to the terms of this Agreement, the Trustee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash or immediately available funds to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on the Closing Date with respect to each Group, an amount equal to 40.588% of the aggregate Purchase Price of the units of Equipment in such Group; and

(b) in 36 semiannual installments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph (the aggregate of said installments with respect to all units of Equipment settled for hereunder being hereinafter called the "CSA Indebtedness").

4.4. CSA Indebtedness; Payment Dates; Interest.

(1) The installments of CSA Indebtedness payable pursuant to subparagraph (b) of the preceding paragraph shall be payable on each March 1 and September 1, commencing March 1, 1985, to and including September 1, 2002, each such date being hereinafter called a "Payment Date". The unpaid balance of the CSA Indebtedness shall bear interest from the Closing Date in respect of which such indebtedness was incurred at the rate of 13.875% per annum. Such interest shall be payable, to the extent accrued, on September 1, 1984, and on each Payment Date thereafter. The installments of principal payable on each Payment Date shall be calculated so that the amount and allocation of principal and interest payable on each Payment Date shall be substantially in proportion to the amount and allocation of principal and interest on such Payment Date set forth in Schedule I hereto. The Trustee will furnish to the Vendor and the Lessee promptly after the last Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

(2) If any of the dates for payment of principal or interest is not a business day, such payment shall be payable on the succeeding business day.

4.5. Calculation of Interest. Interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months.

4.6. Overdue Interest. The Trustee will pay interest, to the extent legally enforceable, at the rate of 14.875% per annum (the "Overdue Rate") upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof or such lesser amount as shall be legally enforceable, anything herein to the contrary notwithstanding.

4.7. Currency of Payment; Restrictions on Prepayment. All payments provided for in this Agreement shall be made in immediately available funds in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as specifically provided herein, the Trustee shall not have the privilege of prepaying any portion of the CSA Indebtedness prior to the date it becomes due.

4.8. Liability of Trustee Limited to "Income and Proceeds from Equipment"; Meaning Thereof; Limitation on Execution of Judgments. Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 16 and 17 hereof, except as set forth in this Paragraph 4.8), but not limiting the effect of Article 23 hereof, it is understood and agreed by the Vendor that the liability of the Trustee or any assignee of the Trustee for all payments to be made by it under and pursuant to this Agreement, and for all performance obligations, with the exception only of the payments to be made pursuant to subparagraph (a) of Paragraph 4.3 hereof and any amount payable pursuant to the proviso to Paragraph 13.3 hereof and any amounts payable by the Trustee upon the Trustee's election to retain units of the Equipment pursuant to the last paragraph of § 7.9 of the Lease, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment", and such payments shall be made by the Trustee only to the extent that the Trustee or any assignee of the Trustee shall have actually received "income and proceeds from the Equipment" to make such payments. The Vendor agrees that the Trustee shall have no personal liability to make any payments under this Agreement whatsoever except from the "income and proceeds from the Equipment" or other payments described in the preceding sentence to the extent actually received by the Trustee or any assignee of the Trustee or

except for any amount payable by the Trustee pursuant to the proviso to Paragraph 13.3 hereof. In addition, the Vendor agrees that the Trustee:

(i) makes no representation or warranty as to, and is not responsible for, the due execution, validity, sufficiency or enforceability of the Lease, insofar as it relates to the Lessee (or any document relative thereto) or of any of the Lessee's obligations thereunder, and

(ii) shall not be responsible for the performance or observance by the Lessee of any of its agreements, representations, indemnities, obligations or other undertakings under the Lease; it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Equipment and to the Vendor's rights under the Lease and the Lease Assignment against the Lessee and the Equipment.

As used herein the term "income and proceeds from the Equipment" shall mean:

(i) if one of the events of default specified in Paragraph 16.1 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Trustee or any assignee of the Trustee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of a Termination and/or Casualty Occurrence (as defined in Paragraph 7.2 hereof) paid for or with respect to the Equipment pursuant to the Lease, including without limitation amounts payable by the Trustee upon the Trustee's electing to retain Units pursuant to the last paragraph of §7.9 of the Lease, and any and all other payments received under § 13 or any other provision of the Lease, and (b) any and all payments or proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and

(ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) (not including amounts paid by the Lessee to the Trustee as reimbursement of sums paid by the Trustee on account of prior defaults under § 13.1 of the Lease) as is indefeasibly received by the Trustee or any assignee of the Trustee and as shall equal the

portion of the CSA Indebtedness (including prepayments thereof required in respect of a Termination or Casualty Occurrence) and/or interest thereon due and payable on the date such amounts were required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement;

provided, however, that the term "income and proceeds from the Equipment" shall not include any indemnity or other payment paid or payable to the Owner or to the Trustee, in its individual or fiduciary capacity, pursuant to \$6, \$12 or \$20 of the Lease, any proceeds of public liability insurance paid or payable to the Owner or to the Trustee, in its individual or fiduciary capacity, as an additional named insured pursuant to \$7.7 of the Lease and any proceeds paid or payable to the Owner of property insurance carried and maintained by, and at the option of, the Owner (whether directly or in the name of the Trustee) which is in addition to the property insurance required to be carried and maintained by the Lessee pursuant to \$7.7 of the Lease, or any indemnity or other payment paid or payable to the Owner pursuant to Paragraph 12 of the Participation Agreement; and provided further that the term "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were received by the Trustee or any assignee of the Trustee prior to the existence of such an event of default which exceeded the amounts required to discharge that portion of the CSA Indebtedness (including prepayments thereof required in respect of a Termination or Casualty Occurrence) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Trustee or any assignee of the Trustee were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease or this Agreement. It is expressly agreed by the parties hereto that any payments out of the income and proceeds of the Equipment shall be payable first, to the Vendor toward satisfaction of the CSA Indebtedness to the extent then due and payable, second to the Vendor toward satisfaction of any other amount for which payment is then due from the Trustee hereunder or then due from the Owner under the Participation Agreement and third, to the Trustee for application pursuant to the Trust Agreement. Nothing contained herein limiting the liability of the Trustee shall derogate from the right of the Vendor to proceed against the Equipment or the Lessee under the Lease for the full unpaid Purchase Price of the Equipment and interest thereon and all other payments and

obligations hereunder. Notwithstanding anything to the contrary contained in Article 16 or 17 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Trustee for an amount in excess of the amounts payable by the Trustee pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph.

ARTICLE 5

SECURITY INTEREST IN THE EQUIPMENT

5.1. Vendor To Retain Security Interest; Accessions Are Part of Equipment. The Vendor shall and hereby does retain a security interest in the Equipment until the Trustee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Trustee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Trustee and the Lessee as provided in this Agreement and the Lease. Such retention of security interest is solely to secure performance by the Trustee of its obligations under this Agreement (without regard to any provision of this Agreement limiting the liability of the Trustee), and, subject thereto, title to the Equipment shall be and remain in the Trustee subject to such performance.

Any and all parts installed on and additions and replacements made to any unit of the Equipment (i) which are not readily removable without causing material damage to such unit, (ii) the cost of which is included in the Purchase Price of such unit, (iii) in the course of ordinary maintenance of the Equipment or (iv) which are required for the operation or use of such unit by the Association of American Railroads and/or the Interstate Commerce Commission, the United States Department of Transportation or any other applicable regulatory body, shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

5.2. Obligations Upon Payment of CSA Indebtedness. Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all

other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Trustee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Trustee at that time, will (a) execute an instrument releasing its security interest in the Equipment and transferring such interest to the Trustee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such instrument to the Trustee at its address referred to in Article 22 hereof, (b) execute and deliver at the same address, for filing, recording or depositing by the Trustee in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Trustee to the Equipment and (c) pay to the Trustee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Trustee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such instrument or instruments or to file such certificate of payment within a reasonable time after written demand by the Trustee.

ARTICLE 6

TAXES

6.1. General Tax Indemnification. Whether or not any of the transactions contemplated hereby are consummated, the Trustee assumes responsibility for and agrees to pay, and agrees to protect, save, keep harmless and indemnify on an after-tax basis the Vendor and its successors and assigns (the "Indemnified Persons") against, all Taxes (as defined in § 6 of the Lease) imposed on, incurred by or asserted against any Indemnified Person or any unit of Equipment in whole or in part on account of, or with respect to, this Agreement or the Lease or any document referred to herein or therein or any of the transactions contemplated hereby or thereby or the manufacture, purchase, acceptance or rejection of the Equipment or any portion thereof or the ownership, delivery, nondelivery, leasing, re-leasing, subleasing, possession, use, transfer of title, operation, maintenance, repair, condition, sale, return or other disposition of the

Equipment or any portion thereof or any indebtedness with respect thereto or the rentals, receipts, earnings or gains arising therefrom; excluding, however: (i) Taxes of the United States or any state or political subdivision thereof and (if and to the extent that any Indemnified Person is entitled to a credit therefor against its United States Federal income taxes) Taxes of any foreign country or subdivision thereof, imposed on or measured solely by the net income or excess profits or items of tax preference of such Indemnified Persons, other than (1) Taxes arising out of or imposed in respect of the receipt of indemnification payments pursuant to this Agreement, and (2) the aggregate of all state or local Taxes measured by net income based on receipts for which indemnification payments are provided under this Paragraph 6.1 and which are in excess of the amount of any such Taxes based on such receipts which would be payable to the state and locality in which the Indemnified Person has its principal place of business without apportionment to any other state, provided that such Taxes of any foreign country or subdivision thereof incurred as a result of the Indemnified Person being taxed by such foreign country or subdivision on its worldwide income without regard to the transactions contemplated by this Agreement shall be excluded whether or not the Indemnified Person is entitled to a credit against its United States Federal income taxes; (ii) any Taxes imposed on or measured by any fees or compensation received by any agent of the Vendor; and (iii) Taxes which are imposed on or measured solely by the net income of the Indemnified Person if and to the extent that such Taxes are in substitution for or reduce the Taxes payable by any other person which the Trustee has not agreed to pay or indemnify against pursuant to this Article 6; provided, however, that such exclusion shall not apply to any Taxes that are by their terms enacted or adopted as a direct substitute for any taxes, fees or other charges that are now or hereafter in effect, which otherwise would have been imposed on such Indemnified Person and which are Taxes indemnified against under this Article 6; and provided, further, that the Trustee shall not be required to pay any Taxes during the period it may be contesting the same in the manner provided in Paragraph 6.2 hereof.

6.2. Claims; Contests; Refunds. If claim is made against an Indemnified Person for any Taxes indemnified against under this Article 6, such Indemnified Person shall promptly notify the Trustee of such claim in writing. If reasonably requested by the Trustee in writing, an Indemnified Person shall, upon receipt of an agreement, satisfactory to such Indemnified Person, by the Trustee to

indemnify such Indemnified Person for all costs, expenses, losses, legal and accountants' fees and disbursements, payments of taxes, penalties, fines, additions to tax and interest relating to such claim, and at the expense of the Trustee, contest in good faith the validity, applicability or amount of such Taxes by (a) resisting payment thereof if possible, (b) not paying the same except under protest, if protest is necessary and proper, and (c) if payment is made, using reasonable efforts to obtain a refund thereof in appropriate administrative or judicial proceedings, or both. The Trustee may also contest, at its own expense, the validity, applicability or amount of such Taxes in the name of the Indemnified Person, and such Indemnified Person shall cooperate with any reasonable request made by the Trustee in connection therewith; provided that no proceeding or actions relating to such contest shall be commenced (nor shall any pleading, motion, brief or other paper be submitted or filed in the name of such Indemnified Person in any such proceeding or action) without the prior written consent of such Indemnified Person, which shall not be unreasonably withheld. The Trustee will advance any Taxes required to be paid pursuant to clause (b) or (c) above and if such Indemnified Person shall obtain a refund of all or any part of such Taxes previously advanced by the Trustee in connection with any such contest or an amount representing interest thereon, the Indemnified Person shall pay the Trustee the amount of such refund or interest net of expenses; provided, however, that any disallowance or reduction of such refund subsequent to the year of realization by such Indemnified Person shall be treated as Taxes and subject to the provisions of this Article 6; and provided, further, that no event of default set forth in Paragraph 16.1 hereof and no event which with notice or lapse of time or both would constitute such an event of default shall have occurred and be continuing.

6.3. Reports or Returns. In case any report or return is required to be made with respect to any obligation of the Trustee under or arising out of this Article 6, the Trustee either shall make such report or return in such manner as will show the interest of the Vendor in the Equipment or shall promptly notify the Vendor of such requirement and shall make such report or return in such manner as shall be satisfactory to the Vendor. All costs and expenses (including legal and accountants' fees) of preparing any such return or report shall be borne by the Trustee.

6.4. Survival. All of the obligations of the Trustee under this Article 6 shall survive the expiration or termination of this Agreement with respect to all events, facts, conditions or other circumstances occurring

or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. For purposes of this Article 6, the term "Indemnified Person" when referring to a corporation shall mean and include, in addition to such corporation, each member of the affiliated group of corporations making a consolidated return of which such corporation is a member, and the successors and assigns of each such person.

ARTICLE 7

MAINTENANCE; TERMINATION AND CASUALTY OCCURRENCES; PREPAYMENT

7.1. Maintenance. Subject to the limitations contained in Paragraph 4.8 and Article 23 hereof, the Trustee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good operating order and repair, ordinary wear and tear excepted.

7.2. Termination; Casualty Occurrences. In the event that the Lease is terminated with respect to any Unit of Equipment pursuant to § 7.9 of the Lease (a "Termination") or any unit of Equipment shall suffer a Casualty Occurrence (as defined in § 7.1 of the Lease) during the term of this Agreement, the Trustee shall, promptly after it shall have received notice from the Lessee or shall have otherwise been informed of such Termination or that such unit has suffered a Casualty Occurrence, cause the Vendor to be fully informed in regard thereto. On the Casualty Payment Date (as defined in § 7.1 of the Lease) in the case of a Casualty Occurrence (or, in the event of a Casualty Occurrence during the period in which any unit of Equipment is being returned pursuant to § 14 or § 17 of the Lease, on a date 30 days after such Casualty Occurrence), or on any Termination Date (as defined in § 7.9 of the Lease) in the case of a Termination (each such date hereinafter called a "Settlement Date"), the Trustee shall, subject to the limitations contained in Paragraph 4.8 and Article 23 hereof, pay to the Vendor (i) in the case of a Casualty Occurrence, a sum equal to the Casualty Value (as defined in Paragraph 7.3 hereof) of such unit suffering a Casualty Occurrence as of such Settlement Date, and (ii) in the case of a Termination, a sum equal to the Termination Value (as defined in Paragraph 7.4 hereof) as of such Settlement Date. On any such Settlement Date the Trustee shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit or the Termination Value of

such unit, as the case may be. Any money paid to the Vendor pursuant to this paragraph shall be applied on the date of such payment to prepay, without penalty or premium (except as provided in Paragraph 7.4 hereof), ratably in accordance with the unpaid principal balance of each installment, the CSA Indebtedness, together with all interest accrued on the portion of the CSA Indebtedness being prepaid. The Trustee shall promptly cause to be furnished to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Vendor and the Lessee may request, calculated as provided in Paragraph 4.4 hereof.

7.3. Casualty Value. The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be equal to the sum of (i) that portion of the original Purchase Price thereof referred to in Paragraph 4.3(b) hereof remaining unpaid on the Settlement Date (without giving effect to any prepayment or prepayments theretofore made under this Article with respect to any other unit) and (ii) interest accrued thereon but unpaid as of the Settlement Date. For the purpose of this paragraph and Paragraph 7.4 hereof, each payment of the Purchase Price made pursuant to Article 4 hereof shall be deemed to be a payment with respect to each unit of Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of all the Equipment.

7.4. Termination Value. The Termination Value of each unit of the Equipment shall be equal to (i) the Casualty Value of such unit of Equipment determined pursuant to Paragraph 7.3 hereof, plus, (ii) in the case of a Termination resulting from a determination by the Lessee that the Units subject to such termination are surplus, a prepayment premium equal to the applicable percentage of such Casualty Value as set forth below:

<u>Termination Date</u>	<u>Percentage</u>
9/1/94	10%
3/1/95	10%
9/1/95	8.75%
3/1/96	8.75%

9/1/96	7.50%
3/1/97	7.50%
9/1/97	6.25%
3/1/98	6.25%
9/1/98	5%
3/1/99	5%
9/1/99	3.75%
3/1/00	3.75%
9/1/00	2.50%
3/1/01	2.50%
9/1/01	1.25%
3/1/02	1.25%
9/1/02	-0-

7.5. Obligations upon Payment of Casualty Value or Termination Value. Upon payment by the Trustee to the Vendor (i) of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence or (ii) of the Termination Value of any unit of the Equipment, absolute right to the possession of, title to and property in such unit or units shall pass to and vest in the Trustee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Trustee, will execute and deliver to the Trustee, at the expense of the Trustee, an appropriate instrument confirming such passage to the Trustee of all the Vendor's right, security title and interest, and the release of the Vendor's security interest, in such unit or units, in recordable form, in order that the Trustee may make clear upon the public records the title of the Trustee to such unit or units.

ARTICLE 8

INSURANCE PROCEEDS AND CONDEMNATION PAYMENTS

If the Vendor shall receive any insurance proceeds or condemnation payments in respect of any unit suffering a Casualty Occurrence or involved in a Termination, the Vendor shall promptly pay such insurance proceeds or condemnation payments to the Trustee; provided, however, that no event of default shall have occurred and be continuing hereunder and the Trustee shall have made payment (i) of the Casualty Value of such unit, and/or (ii) of the

Termination Value of such unit to the Vendor. All insurance proceeds received by the Vendor in respect of any unit of Equipment not suffering a Casualty Occurrence shall be paid to the Trustee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 9

REPORTS AND INSPECTIONS

On or before April 30 in each year, commencing with the year 1985, the Trustee shall, subject to the provisions of Paragraph 4.8 and Article 23 hereof, cause to be furnished to the Vendor an accurate statement to the effect set forth in § 8 of the Lease. The Vendor shall have the right, by its agents, to inspect the Equipment and the Trustee's and the Lessee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 10

MARKING OF EQUIPMENT

10.1. Marking of Equipment. The Trustee will cause each unit of the Equipment to be kept numbered and marked as provided in § 5 of the Lease. The Trustee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed, recorded and deposited by or on behalf of the Trustee in all public offices where this Agreement shall have been filed, recorded and deposited.

10.2. No Designations of Ownership. Except as provided in Paragraph 10.1 of this Article 10, the Trustee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Equipment may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates.

ARTICLE 11

COMPLIANCE WITH LAWS AND RULES

During the term of this Agreement, the Trustee will comply, and will cause every lessee or user of the Equipment to comply, in all material respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all Applicable Laws (as defined in § 10.1 of the Lease), and in the event that such Applicable Laws require any alteration, replacement or addition of or to any part of any unit of the Equipment, the Trustee will or will cause the Lessee to conform therewith at no expense to the Vendor; provided, however, that, with notice to the Vendor, the Trustee or the Lessee may, in good faith, contest the validity or application of any such Applicable Laws in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 12

POSSESSION AND USE

12.1. Possession and Use of Equipment by Trustee. The Trustee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by the Builder to the Trustee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

12.2. Lease Permitted; Lease Subordinate; No Amendment or Termination. The Trustee simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and the rights of the Lessee and its permitted assigns under the Lease shall be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement and under the Consent; provided, however, that so long as (i) no Event of Default exists under the Lease, (ii) the Lessee is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments (as defined in the Lease Assignment) in accordance with the Lease Assignment, the Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 15 of the Lease. The Lease shall not be amended in any material respect or terminated (except in accordance with its terms) without the prior written consent of the Vendor.

12.3. Other Leases of Equipment. Subject to the rights of the Lessee under the Lease, the Trustee may also lease the Equipment to any other entity, but only with the prior written consent of the Vendor, which consent may be subject to the conditions, among others, that (i) such lease shall provide that the rights of such lessee are made expressly subordinate to the rights and remedies of the Vendor under this Agreement, (ii) such lessee shall expressly agree not to assign or permit the assignment of any unit of the Equipment to service involving the regular operation and maintenance thereof outside the United States and (iii) such lease shall be assigned to the Vendor as security on terms consistent with those set forth in Annex D hereto, and in any event satisfactory to the Vendor.

ARTICLE 13

PROHIBITION AGAINST LIENS

13.1. Trustee to Discharge Liens. The Trustee will pay or discharge any and all sums claimed by any party from, through or under the Trustee or its successors or assigns which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof or the income and proceeds from the Equipment, as defined in Article 4 hereof, equal or superior to the Vendor's security interest therein, and will promptly discharge any such lien, charge or security interest which arises, but, with notice to the Vendor, shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of any such liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

13.2. No Breach for Certain Liens. The foregoing covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

13.3. Article 13 Subject to Paragraph 4.8 and Article 23 Except in Certain Instances. The obligations of the Trustee under this Article 13 are subject to the limitations contained in Paragraph 4.8 and Article 23 hereof; provided, however, that the Trustee in its individual capacity will pay or discharge any and all taxes, claims, liens, charges or security interests claimed by any party from, through or under the Trustee or its successors or assigns, and, to the extent it receives funds sufficient for such purpose from the Owner, from, through or under the Owner and its successors and assigns, not arising out of the transactions contemplated hereby or in other documents mentioned herein (but, to the extent that it receives funds sufficient for such purpose from the Owner, including taxes arising out of the receipt of rentals and other payments under the Lease and any other proceeds from the Equipment), which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment or the Trustee's interest in the Lease and the payments to be made thereunder, but the Trustee shall not be required to pay or discharge any such tax, claim, lien, charge or security interest so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not adversely affect the Lessee's rights of possession, use and assignment provided under § 15 of the Lease or the security interest of the Vendor in or to the Equipment or its interest in the income and proceeds from the Equipment or otherwise under this Agreement.

ARTICLE 14

INDEMNITIES AND WARRANTIES

14.1. Indemnification. The Trustee shall pay, and shall protect, indemnify and hold the Indemnified Persons harmless from and against any and all Indemnified Matters (as defined in § 12 of the Lease) which may be imposed on, incurred by or asserted against any Indemnified Person; except that the Trustee shall not be liable to the Builder in respect of any Indemnified Matter to the extent liability in respect thereof arises out of any tort by the Builder or out of any breach of warranty or failure to perform any covenant hereunder by the Builder or is covered by the Builder's warranty of material and workmanship or patent indemnification referred to in Paragraph 14.4 hereof. The Trustee shall be obligated under this Article 14, irrespective of whether any Indemnified Person

shall also be indemnified with respect to the same matter under any other agreement by any other person, and the Indemnified Person seeking to enforce the indemnification may proceed directly against the Trustee under this Article 14 without first resorting to any such other rights of indemnification. In case any action, suit or proceeding is brought against any Indemnified Person in connection with any Indemnified Matter, such Indemnified Person shall provide prompt written notice thereof to the Trustee and the Trustee may, at the Trustee's expense, resist and defend such action, suit or proceeding, or cause the same to be resisted or defended by counsel selected by the Trustee and approved by such Indemnified Person (which approval shall not be unreasonably withheld), and, in the event of any failure by the Trustee to do so, the Trustee shall pay all costs and expenses (including without limitation attorneys' fees and expenses) incurred by such Indemnified Person in connection with such action, suit or proceeding; provided that the Trustee shall not be liable for any settlement of any such action, suit or proceeding effected without its consent. In the event the Trustee is required to make any payment under this Article 14, the Trustee shall pay such Indemnified Person an amount which, after deduction of all taxes required to be paid by such Indemnified Person in respect of the receipt thereof under the laws of the United States or of any political subdivision thereof (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expense indemnified against, and of any other such taxes as determined in the sole discretion of the Indemnified Person), shall be equal to the amount of such payment. The Vendor and the Trustee agree to give each other promptly upon obtaining knowledge thereof written notice of any claim or liability hereby indemnified against. Upon the payment in full of any indemnities as contained in this Article 14 by the Trustee, and provided that no event of default described in Paragraph 16.1 hereof (or other event which with lapse of time or notice or both would constitute such an event of default) shall have occurred and be continuing, it shall be subrogated to any right of such Indemnified Person in respect of the matter against which indemnity has been given. Any payments received by such Indemnified Person from any person (other than the Trustee) as a result of any Indemnified Matter shall be paid over to the Trustee to the extent necessary to reimburse the Trustee for indemnification payments previously made in respect of such matter.

14.2. Survival; No Subrogation. The indemnities contained in this Article 14 shall survive the expiration or termination of this Agreement with respect to all events, facts, conditions or other circumstances occurring or existing prior to such expiration or termination and are expressly made for the benefit of, and shall be enforceable by, any Indemnified Person. None of the indemnities in this Article 14 shall be deemed to create any rights of subrogation in any insurer or third party against the Trustee therefor, from or under any Indemnified Person, whether because of any claim paid or defense provided for the benefit thereof or otherwise.

14.3. Trustee Not Released if Equipment Damaged or Lost. The Trustee will bear the responsibility for, and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

14.4. Warranties of Builder; Patent Indemnities. The agreement of the parties relating to the Builder's warranties of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Items 3 and 4 of Annex A hereto. The Builder represents and warrants that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Builder will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights created by this Agreement, the CSA Assignment and the Lease.

ARTICLE 15

ASSIGNMENTS

15.1. Assignment by Trustee. Except as provided in Article VII of the Trust Agreement, the Trustee will not (a) except as provided in Article 12 hereof, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement.

15.2. Assignment by Vendor. All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Trustee, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the

obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities referred to in Article 14 hereof, or relieve the Trustee of its obligations to the Builder contained in Articles 2, 3, 4, 6 and 14 hereof, Annex A hereto and this Article 15, or any other obligation which, according to its terms or context, is intended to survive an assignment.

15.3. Notice of Assignment by Vendor. Upon any such assignment, the assignor shall give written notice to the Trustee and the Lessee, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Trustee of the notification of any such assignment, all payments thereafter to be made by the Trustee under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

15.4. No Setoff Against CSA Indebtedness Upon Assignment. The Trustee recognizes that this Agreement will be assigned to the Assignee as provided in the CSA Assignment. The Trustee expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the assignee to the entire unpaid CSA Indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever by the Trustee arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Trustee by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Trustee against and only against the Builder.

ARTICLE 16

DEFAULTS

16.1. Events of Default; Termination of Lease; Declaration of Default; Acceleration of CSA Indebtedness.
In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Trustee shall fail to pay or cause to be paid in full any sum payable by the Trustee when payment thereof shall be due hereunder (irrespective of the provisions of Paragraph 4.8 or Article 23 hereof or any other provision of this Agreement limiting the liability of the Trustee) and such default shall continue for five business days after the date such payment is due and payable; or

(b) the Trustee shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement (irrespective of the provisions of Paragraph 4.8 or Article 23 hereof or any other provision of this Agreement limiting the liability of the Trustee), or of the Lease, the CSA Assignment or the Lease Assignment, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) any proceeding shall be commenced by or against the Trustee or the Owner for any relief which includes, or might result in, any modification of the obligations of the Trustee or the Owner hereunder or under the Participation Agreement under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of such obligations), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Trustee or the Owner, as the case may be, under this Agreement and under the Participation Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Trustee or the Owner or for its prop-

erty in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 60 days after the commencement of such proceeding; or

(d) the Trustee shall make or permit any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment and the Trustee shall, for more than 30 days after demand in writing by the Vendor, fail to secure a reassignment or retransfer to the Trustee of such Agreement, interest or right; or

(e) any Event of Default (as defined in the Lease) shall have occurred and be continuing under the Lease unless the Trustee shall have cured such Event of Default and the corresponding event of default hereunder (after giving effect to any applicable grace periods) within five days after the Vendor shall have given notice to the Trustee pursuant to the last paragraph of Paragraph 1 of the Lease Assignment (as defined in the Participation Agreement); provided, however, that if more than four Events of Default or more than two consecutive Events of Default shall have occurred under clause (A) of § 13.1 of the Lease, there shall be an event of default under this clause (e) whether or not the Trustee in fact cures a fifth, or a third consecutive, Event of Default under said clause (A) and irrespective of whether the Vendor shall have given such notice to the Trustee;

(it being understood, however, that any event described in clause (a) above, to the extent that there shall be a concurrent Event of Default under clause (A) of § 13.1 of the Lease, shall not be deemed an event of default hereunder unless and until (i) the five-day period, if any, during which, in accordance with the provisions of clause (e) above, the Trustee may cure such Event of Default under the Lease and the corresponding event hereunder shall have expired and (ii) the Trustee shall not, during such period, have effected such cure), then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Trustee, the Owner and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, declare (a "Declaration of Default") the entire unpaid CSA Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without

further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the Overdue Rate to the extent legally enforceable. In addition, if the Trustee does not pay the entire unpaid CSA Indebtedness, together with the interest thereon accrued and unpaid to the date of payment, within 30 days of such notice of Declaration of Default, the Vendor may cause the term of the Lease immediately to terminate (and the Trustee acknowledges the right of the Vendor to terminate the term of the Lease), provided, however, that such termination shall not be in derogation of or impair the rights of the Trustee or the Vendor (under the assignment thereof), as the case may be, to enforce compliance by the Lessee with any of its covenants and agreements under the Lease or to enforce any of its rights and remedies under § 13 of the Lease (subject to the Vendor's rights to repossess and sell the Equipment as provided in this Agreement), including the rights of the Trustee or the Vendor (under the assignment thereof), as the case may be, to sue for and recover damages provided for in § 13 of the Lease upon the occurrence of an Event of Default under the Lease; and provided further, however, that so long as (1) no Event of Default exists under the Lease, (2) the Lessee is complying with the provisions of the Consent and (3) the Vendor is entitled to apply the Payments in accordance with the Lease Assignment, the Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 15 of the Lease. Upon a Declaration of Default, subject to Paragraph 4.8 and Article 23 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the CSA Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Trustee, subject to the provisions of Paragraph 4.8 and Article 23 hereof and the second proviso in the preceding sentence, wherever situated. The Trustee shall promptly notify the Vendor of any event of which it has knowledge which constituted, constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

16.2. Waiver of Defaults. The Vendor may, at its election, waive any event of default hereunder and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease by notice to the Trustee and the Lessee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease had been made or given. Notwithstanding

the provisions of this paragraph, it is expressly understood and agreed by the Trustee that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

16.3. Prepayment. If after September 1, 1989, an event of default shall have occurred and be continuing hereunder for a period of 180 days or more as a result of an Event of Default under (and as defined in) the Lease, the Vendor shall not have made a Declaration of Default and the Vendor shall have exercised its right, pursuant to the second paragraph of Paragraph 1 of the Lease Assignment, to retain the balance of the Payments (as defined in the Lease Assignment) that would otherwise be payable to the Trustee, the Trustee may prepay the entire CSA Indebtedness together with interest thereon accrued and unpaid to the date of prepayment, without premium or penalty, upon not less than 30 days prior written notice to the Vendor (which notice shall specify a prepayment date not less than 30 nor more than 60 days later than the giving of such notice) unless the Vendor shall, on or before the 30th day following receipt of such notice, release to the Trustee all such balances so retained. In the event of such release, the Vendor shall not at any time thereafter be entitled, pursuant to said second paragraph of Paragraph 1 of the Lease Assignment, to retain any portion of any Payment by virtue of the occurrence and continuation of any Events of Default under the Lease known to the Vendor and subsisting as of the date of such release.

ARTICLE 17

REMEDIES

17.1. Vendor May Take Possession of Equipment. Except as hereinafter in this Article 17 expressly provided, at any time during the continuance of a Declaration of Default, the Vendor may, upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Trustee any sums theretofore paid and free from all claims whatsoever, and may remove the same from possession and use of the Trustee, the Lessee or any other person and for such purpose may enter upon the premises of the Trustee or the Lessee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Trustee or the Lessee, subject to all mandatory requirements of law.

17.2. Assembling of Equipment for Vendor. In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Trustee shall, subject to the provisions of Paragraph 4.8 and Article 23 hereof, at its own expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any unit or units have been interchanged or which may have possession thereof to return the unit or units) place such units upon such storage tracks as the Vendor reasonably may designate;

(b) cause such units to be stored, on such tracks, without charge for insurance, rent or storage, pending the sale, lease or other disposal of such units of Equipment by the Vendor; and

(c) cause the same to be transported to any reasonable place, as directed by the Vendor.

During any such storage period, the Lessee has agreed pursuant to § 14.1 of the Lease, at its own cost and expense, to insure, maintain and keep each such unit in good order and repair and to permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of this agreement between the parties, and the Trustee acknowledges that upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled under the Lease as assignee of the rights of the Trustee thereunder to a decree against the Lessee requiring specific performance hereof. The Trustee hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

17.3. Vendor May Dispose of or Retain Equipment. At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as provided in Paragraph 17.1 hereof) may, at its election, retain the Equipment in satisfaction of the entire CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Trustee and the Lessee by telegram or registered mail, addressed as

provided in Article 22 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Trustee's rights in the Equipment shall thereupon terminate and all payments made by the Trustee may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Trustee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Trustee; provided, further, that if the Trustee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

17.4. Vendor May Sell Equipment; Trustee's Right of Redemption. At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Trustee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Trustee, the Lessee or any other party claiming from, through or under the Trustee or the Lessee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Trustee should tender full payment of the total unpaid balance of the CSA Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the

Trustee. The proceeds of such sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited against the amount due to the Vendor under the provisions of this Agreement.

17.5. Sale of Equipment by Vendor. Any sale hereunder shall be held at such place or places and at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor, the Trustee or the Lessee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale; provided, however, that the Lessee shall not be entitled to so bid and purchase if an Event of Default under the Lease shall have occurred and be continuing. The Trustee and the Lessee shall be given written notice of such sale not less than ten business days prior thereto, by telegram or registered mail addressed as provided in Article 22 hereof. In addition, if such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 40 offerees have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Trustee to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Trustee (except to the extent of surplus money received as provided in Paragraph 17.7 hereof), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all or any part of sums due to the Vendor hereunder.

17.6. Effect of Remedies and Powers and Exercise Thereof. Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity not inconsistent herewith, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of

the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Trustee shall not otherwise alter or affect the Vendor's rights or the Trustee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Trustee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

17.7. Deficiencies. If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Trustee shall, subject to the limitations of Paragraph 4.8 hereof and Article 23 hereof, pay the amount of such deficiency to the Vendor upon demand, together with interest thereon from the date of such demand to the date of payment at the Overdue Rate, and, if the Trustee shall fail to pay any such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of Paragraph 4.8 hereof and Article 23 hereof, be entitled to recover a judgment therefor against the Trustee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Trustee. The foregoing provisions of this paragraph are subject to the provisions of Paragraph 18 of the Participation Agreement.

17.8. Expenses. The Trustee will pay all reasonable fees, costs and expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment. The foregoing provisions of this paragraph shall be subject to the limitations set forth in Paragraph 4.8 hereof and Article 23 hereof.

17.9. Remedies Subject to Mandatory Legal Requirements. The foregoing provisions of this Article 17 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto and are further subject to the condition that, so long as (i) no Event of Default exists under the Lease, (ii) the Les-

see is complying with the provisions of the Consent and (iii) the Vendor is entitled to apply the Payments in accordance with the Lease Assignment, the Lease may not be terminated and the Lessee shall be entitled to the rights of possession, use and assignment provided under § 15 of the Lease.

ARTICLE 18

APPLICABLE STATE LAWS

18.1. Conflict with State Laws. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions of this Agreement and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Where, however, the provisions of any applicable law of any jurisdiction which conflict with any provision of this Agreement may be waived, they are hereby waived by the Trustee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

18.2. Waiver of Notices. Except as otherwise provided in this Agreement, the Trustee, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights and any and all rights of redemption.

ARTICLE 19

RECORDING

Subject to the provisions of Paragraph 4.8 and Article 23 hereof, the Trustee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed with the Interstate Commerce Commission pursuant to 49 U.S.C. § 11303; and the Trustee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the pur-

pose of proper protection, to the satisfaction of counsel for the Vendor, of its security title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Trustee will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 20

REPRESENTATIONS AND WARRANTIES OF BUILDER

The Builder hereby represents and warrants to the Trustee, its successors and assigns, that this Agreement is duly authorized by it and lawfully executed and delivered by it for a valid consideration and that, assuming due authorization, execution and delivery by the Trustee, this Agreement is, insofar as the Builder is concerned, a legal, valid and existing agreement binding upon and enforceable against the Builder in accordance with its terms.

ARTICLE 21

ARTICLE AND PARAGRAPH HEADINGS; EFFECT AND MODIFICATION OF AGREEMENT

21.1. Article and Paragraph Headings for Convenience Only. All article and paragraph headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

21.2. Effect and Modification of Agreement. Except for the Participation Agreement, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor and the Trustee with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor and the Trustee.

ARTICLE 22

NOTICE

Any notice hereunder to any of the parties designated below shall be made in writing and sent by registered or certified mail, postage prepaid and return receipt requested (to be effective on the date of receipt as shown on the return receipt), to the following specified addresses:

(a) to the Trustee, at One Constitution Plaza, Hartford, Connecticut 06115, attention of Corporate Trust Department, with copies to the Owner at its address set forth below,

(b) to the Builder, at the address specified in Item 1 of Annex A hereto,

(c) to any assignee of the Vendor, or of the Trustee, at such address as may have been furnished in writing to the Trustee, or the Vendor, as the case may be, by such assignee, and

(d) to the Owner at its address set forth below:

Progress Leasing Corporation
c/o Xerox Credit Corporation
Two Pickwick Plaza
Greenwich, Connecticut 06836
Attention of Vice President -
Finance/Administration
(with a copy to the Owner at
270 First Avenue South,
St. Petersburg, Florida 33701,
Attention of President)

or to such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 23

IMMUNITIES; SATISFACTION OF UNDERTAKINGS

23.1. No Recourse Against Certain Persons. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such,

past, present or future, of the parties hereto or of the Owner, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, by statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

23.2. Satisfaction of Certain Covenants. The obligations of the Trustee under Paragraphs 7.1, 7.2, 17.2, 17.7 and 17.8 hereof, and under Articles 3, 6, 9, 10, 11, 13, 14 and 19 hereof, and any and all obligations at any time arising thereunder shall be deemed satisfied in full in all respects (except as set forth in Paragraph 13.3 hereof), and be of no further force or effect insofar as they involve personal liability for money or performance or otherwise of the Trustee other than out of "income and proceeds from the Equipment" (as defined in Paragraph 4.8 hereof), by the Lessee's execution and delivery of the Lease. The Trustee shall not have any responsibility for the Lessee's failure to perform such obligations; but if the same shall not be performed, they shall constitute the basis for an event of default hereunder pursuant to Article 16 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor; provided, however, that the Vendor shall consent to any agreement in writing between the Lessee and the Trustee increasing or decreasing the rentals, casualty values or termination values payable pursuant to §§ 3 and 7 of the Lease so long as the amounts payable thereunder are not reduced below those necessary to satisfy the obligations of the Trustee hereunder, such consent to be given by the Vendor within 30 days of delivery of a copy of any such agreement to the Vendor.

23.3. No Personal Liability of Trustee. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, warranties and agreements herein made on the part of the financial institution acting as Trustee hereunder are each and every one of them made and intended not as personal representations, warranties and agreements by said financial institution, including its successors and assigns, or for the purpose or with the intention of binding said financial institution personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and

delivered by said financial institution solely in the exercise of the powers expressly conferred upon said financial institution as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said financial institution (except as provided in Paragraph 13.3 hereof) or the Owner hereunder on account of any representation, warranty or agreement of the Trustee (except as aforesaid) or the Owner hereunder, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; provided, however, that the Vendor or any person claiming by, through or under the Vendor, making claim hereunder, may look to said Trust Estate for satisfaction of the same. Nothing contained in this Section 23.3 shall limit, restrict or impair the rights of the Vendor to take all actions to enforce the rights and remedies provided for herein and to bring suit and obtain a judgment against the Trustee (provided that neither the Trustee in its fiduciary or individual capacity nor the Owner shall have any personal liability on any such judgment and the satisfaction thereof shall be limited to the Trust Estate, including any interest therein of the Trustee or the Owner) or to foreclose the lien and security interest created by this Agreement or otherwise realize upon the Trust Estate, including the right to proceed against the Equipment or the Lessee under the Lease.

The Trustee agrees not to enter into any supplement to or amendment of the Trust Agreement except as provided in Section 8.01 thereof as in effect on the date of execution and delivery hereof.

ARTICLE 24

LAW GOVERNING

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of New York; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. § 11303, such additional rights, if any, as may arise out of the filing, recording or deposit hereof and of any assignment hereof or as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited or in which any unit of Equipment shall be located, and such rights, if any, as may arise out of the marking of Equipment.

ARTICLE 25

EXECUTION

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed. This Agreement shall be effective when the counterparts thereof are received by Messrs. Reid & Priest at their offices in New York, New York.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed this instrument, all as of the date first above written.

THE CONNECTICUT BANK AND TRUST
COMPANY, NATIONAL ASSOCIATION,
not in its individual capacity,
but solely as Trustee as afore-
said,

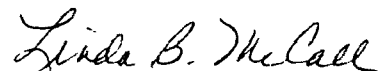
[seal]

by



Authorized Officer

Attest:



Authorized Officer

[seal]

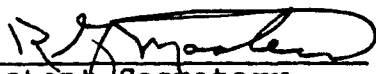
BETHLEHEM STEEL CORPORATION,

by



Vice President


Attest:



Assistant Secretary

STATE OF CONNECTICUT,)
) ss.:
 COUNTY OF HARTFORD,)

On this 17th day of May 1984, before me personally appeared F. W. KAWAM, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of THE CONNECTICUT BANK AND TRUST COMPANY, NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said Association and that said instrument was signed and sealed on behalf of said Association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Association.


 Notary Public

PATTY A. LYNCH
 NOTARY PUBLIC
 My Commission expires MY COMMISSION EXPIRES MARCH 31, 1987

STATE OF PENNSYLVANIA,)
) ss.:
 COUNTY OF LEHIGH,)

On this day of 1984, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

 Notary Public

My Commission expires

STATE OF CONNECTICUT,)
) ss.:
 COUNTY OF HARTFORD,)

On this day of 1984, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of THE CONNECTICUT BANK AND TRUST COMPANY, NATIONAL ASSOCIATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said Association and that said instrument was signed and sealed on behalf of said Association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Association.

Notary Public

My Commission expires

STATE OF PENNSYLVANIA,)
) ss.:
 COUNTY OF LEHIGH,)

On this 18th day of May 1984, before me personally appeared R. C. Wilkins, to me personally known, who, being by me duly sworn, says that he is a Vice President of BETHLEHEM STEEL CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Francis Karlovitch
 Notary Public

My Commission expires

My Commission Expires
 July 2, 1987
 City of Bethlehem
 Lehigh County

SCHEDULE I

Allocation Schedule of Each \$1,000,000 of CSA Indebtedness
Payable in (i) One Interim Payment of Interest Only on
September 1, 1984, and (ii) 36 Semiannual Installments of
Principal and Interest Commencing March 1, 1985

<u>Installment Date</u>	<u>Principal Recovery</u>	<u>Interest Payment</u>	<u>Total Payment</u>	<u>Ending Principal</u>
9/1/84	*	*	*	1,000,000.00
3/1/85	14,681.82	69,375.00	84,056.82	985,318.18
9/1/85	15,700.37	68,356.45	84,056.82	969,617.81
3/1/86	16,789.59	67,267.24	84,056.83	952,828.22
9/1/86	17,954.37	66,102.46	84,056.83	934,873.85
3/1/87	19,199.95	64,856.87	84,056.82	915,673.90
9/1/87	20,531.95	63,524.88	84,056.83	895,141.95
3/1/88	21,956.35	62,100.47	84,056.82	873,185.60
9/1/88	23,479.57	60,577.25	84,056.82	849,706.03
3/1/89	25,108.47	58,948.36	84,056.83	824,597.56
9/1/89	26,850.37	57,206.46	84,056.83	797,747.19
3/1/90	23,539.81	55,343.71	78,883.52	774,207.38
9/1/90	16,765.28	53,710.64	70,475.92	757,442.10
3/1/91	20,122.85	52,547.55	72,670.40	737,319.25
9/1/91	17,404.51	51,151.52	68,556.03	719,914.74
3/1/92	21,347.17	49,944.09	71,291.26	698,567.57
9/1/92	18,296.23	48,463.13	66,759.36	680,271.34
3/1/93	22,646.16	47,193.82	69,839.98	657,625.18
9/1/93	19,260.58	45,622.75	64,883.33	638,364.60
3/1/94	24,035.13	44,286.54	68,321.67	614,329.47
9/1/94	20,299.75	42,619.11	62,918.86	594,029.72
3/1/95	25,520.49	41,210.81	66,731.30	568,509.23
9/1/95	21,419.15	39,440.33	60,859.48	547,090.08
3/1/96	27,109.22	37,954.37	65,063.59	519,980.86
9/1/96	22,624.61	36,073.67	58,698.28	497,356.25
3/1/97	28,808.85	34,504.09	63,312.94	468,547.40
9/1/97	24,055.54	32,505.48	56,561.02	444,491.86
3/1/98	30,769.22	30,836.62	61,605.84	413,722.64
9/1/98	25,762.81	28,702.01	54,464.82	387,959.83
3/1/99	33,012.25	26,914.71	59,926.96	354,947.58
9/1/99	27,631.19	24,624.49	52,255.68	327,316.39

* Interest only on the CSA Indebtedness shall be paid
to the extent accrued on this date.

<u>Installment Date</u>	<u>Principal Recovery</u>	<u>Interest Payment</u>	<u>Total Payment</u>	<u>Ending Principal</u>
3/1/2000	35,419.05	22,707.57	58,126.62	291,897.34
9/1/2000	29,635.61	20,250.38	49,885.99	262,261.73
3/1/2001	49,126.64	18,194.41	67,321.05	213,135.09
9/1/2001	66,336.51	14,786.25	81,122.76	146,798.58
3/1/2002	70,938.60	10,184.15	81,122.75	75,859.98
9/1/2002	75,859.98	5,262.79	81,122.77	(-.00)
	<u>1,000,000.00</u>	<u>1,553,350.43</u>	<u>**2,553,350.43**</u>	<u>(-.00)</u>

** Excluding interest payable on 9/1/84

Exhibit A to the
Conditional Sale Agreement

CERTIFICATE OF ACCEPTANCE

TO: Bethlehem Steel Corporation
Freight Car Division
Johnstown, Pennsylvania 15907

Attention: Division General Manager

I, the duly authorized representative of The Connecticut Bank and Trust Company, National Association, not in its individual capacity but solely as trustee (the "Trustee") under a Trust Agreement dated as of May 15, 1984 with Progress Leasing Corporation, pursuant to Paragraph 3.4 of the Conditional Sale Agreement dated as of May 15, 1984 between the Trustee and Bethlehem Steel Corporation, and the duly authorized representative of System Fuels, Inc. (the "Lessee") pursuant to \$2 of the Lease of Railroad Equipment, dated as of May 15, 1984, between the Lessee and the Trustee, do hereby certify that I inspected and accepted delivery thereunder of the following Units of Equipment:

TYPE OF EQUIPMENT: 100-TON ROTARY DUMP COAL CARS

DATE ACCEPTED:

NUMBER OF UNITS:

RAILROAD ROAD NUMBERS:

I do further certify that the foregoing Units are in good order and condition, and appear to conform to the specifications, requirements and standards applicable thereto as provided in Article 2 of the aforesaid Conditional Sale Agreement.

I do further certify that each of the foregoing Units has been marked by means of a stencil printed in contrasting colors upon each side of each such Unit in letters not less than one inch in height as follows:

Owned by a Bank or Trust Company as Trustee and
Subject to a Security Agreement filed with the
Interstate Commerce Commission.

The execution of this Certificate will in no way relieve or decrease the responsibility of Bethlehem Steel Corporation for warranties it has made with respect to the Equipment.

Authorized Representative of
Trustee and Lessee

cc: John Hancock Mutual Life Insurance Company

Annex A
to
Conditional Sale Agreement

- Item 1: Bethlehem Steel Corporation, a Delaware corporation, having an address at Johnstown, Pennsylvania 15907, attention of Freight Car Division, Division General Manager.
- Item 2: The Equipment shall be settled for in three Groups on June 4, June 15 and June 29, 1984, unless the Builder, the Assignee, the Lessee and the Trustee otherwise agree; provided, however, that all Equipment shall be settled for on or prior to August 31, 1984.
- Item 3: The Builder warrants that the Equipment will be built in accordance with the requirements, specifications and standards set forth in Article 2 of this Agreement and warrants that the Equipment will be free from defects in material (except as to specialties incorporated therein which were specified or supplied by the Lessee and not manufactured by the Builder) and workmanship under normal use and service, the Builder's obligation under this Item 3 being limited to making good at its plant any part or parts of any unit of such Equipment which shall be returned to the Builder with transportation charges prepaid, within two years after the delivery of such unit to the Trustee, and which the Builder's examination shall disclose to its satisfaction to have been thus defective. EXCEPT FOR THE OBLIGATIONS AND LIABILITIES OF THE BUILDER UNDER ARTICLES 2, 3 AND 4 OF THIS AGREEMENT AND ITEM 4 OF THIS ANNEX A, THE FOREGOING WARRANTY OF THE BUILDER IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF THE BUILDER, and the Builder does not assume or authorize any person to assume for it any other liability in connection with the construction and delivery of the Equipment except as aforesaid. It is further agreed that in no event shall the Builder be liable for indirect or consequential damages of any kind.

The Builder further agrees that neither the inspection as provided in Article 3 of this Agreement nor any examination nor the acceptance of any units of the Equipment as provided in

said Article 3 shall be deemed a waiver or a modification by the Trustee of any of its rights under this Item 3.

Item 4: The Builder agrees (except in cases of articles or materials specified by the Lessee and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Lessee and not developed or purported to be developed by the Builder) to indemnify, protect and hold harmless the Trustee and, as a third party beneficiary hereof, the Lessee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Trustee, the Lessee or its or their assigns, because of the use in or about the construction or operation of any of such Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. Pursuant to § 12 of the Lease, the Lessee likewise will indemnify, protect and hold harmless the Builder, the Trustee and its or their assigns from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Builder, the Trustee or its or their assigns because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessee and not manufactured by the Builder or of any design, system, process, formula or combination specified by the Lessee and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Trustee every claim, right and cause of action which the Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Lessee and purchased or otherwise acquired by the Builder for use in or about the construction or operation of any of the Equipment on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. The Builder further agrees to

execute and deliver to the Lessee or the Trustee or the users of the Equipment all and every such further assurance as may be reasonably requested by the Lessee or the Trustee to more fully effectuate the assignment and delivery of every such claim, right and cause of action. The Builder will give notice to the Trustee and the Lessee of any claim known to the Builder as a result of which liability may be charged against the Trustee or the Lessee hereunder and the Trustee will give notice to the Builder of any claim known to the Trustee as a result of which liability may be charged against the Builder hereunder. The undertakings set forth herein shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement or the satisfaction, discharge or the termination of this Agreement in any manner whatsoever.

- Item 5: The Maximum Purchase Price referred to in Paragraph 4.1 of this Agreement is \$10,628,265.
- Item 6: The Maximum CSA Indebtedness referred to in Article 4 of this Agreement is \$6,314,465.

Annex B
to
Conditional Sale Agreement

<u>Type</u>	<u>AAR Mechanical Designation</u>	<u>Builder's Specifi- cations</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Lessee's Identification Numbers (Both Inclusive)</u>	<u>Estimated Average Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
100-ton rotary dump coal cars	GT	Bethcar Specifi- cation Nos. DF 3400-564	Bethlehem Steel Cor- poration's Johnstown, Pennsylvania plant	320	SFIX 8005 through 8007; SFIX 2575 through 2891	\$31,108	\$9,954,642.37	May 24, June 1 and June 15, 1984 (104 units on the first two such dates and 112 units on the last such date) at Johnstown, Pennsylvania